



101739746

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To the Honorable Commissioner of Patents and Trademarks. 101739746 Attached original documents or copy thereof.

Name of conveying party(ies):

Fleet National Bank, N.A. *5-30-01*

Individual(s) Association
General Partnership Limited Partnership
Corporation-State
Other _____

Additional name(s) of conveying party(ies) attached? Yes No

Nature of conveyance:

Assignment Merger
 Security Agreement Change of Name
 Other Collateral Assignment of Security

Interest in Trademarks

Execution Date: April 30, 2001

2. Name and address of receiving party(ies)

Name: ING (U.S.) Capital, LLC, as agent

Internal Address: _____

Street Address: 1325 Avenue of the Americas

City: New York State: NY ZIP: 10019

Individual(s) citizenship _____
 Association _____
 General Partnership _____
 Limited Partnership _____
 Corporation-State 30
 Other _____

If assignee is not domiciled in the United States, a domestic representative designation is attached: Yes No

(Designations must be a separate document from assignments)

Additional name(s) & address(es) attached? Yes No

Application number(s) or patent number(s):

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

Additional numbers attached? Yes No

Name and address of party to whom correspondence concerning document should be mailed:

Name: Laura Konrath

Internal Address: Winston & Strawn

33rd Floor

Street Address: 35 West Wacker Drive

City: Chicago State: IL ZIP: 60601

6. Total number of applications and registrations involved: 15

7. Total fee (37 CFR 3.41).....\$ 390.00

Enclosed

Authorized to be charged to deposit account

8. Deposit account number:

N/A

(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Laura Konrath

Signature of Person Signing

Signature

5/22/01

Date

Total number of pages including cover sheet, attachments, and document: 15

All documents to be recorded with required cover sheet information to

TRADEMARK

REEL: 002308 FRAME: 0508

Continuation
Item 4

SCHEDULE A
TO
COLLATERAL ASSIGNMENT OF SECURITY INTEREST IN TRADEMARKS

TRADEMARK REGISTRATIONS

Intellectual Property

<u>Trademarks</u>	
Mark/Work	Registration No.
Miscellaneous Design	No. - 2,097,439
Miscellaneous Design	No. - 2,097,440
Audio Book Club & Design	No. - 2,110,587
Miscellaneous Design	No. - 1,938,108
Audio Book Club & Design	No. - 1,965,035
Where Books Come to Life! & Design	No. - 2,117,493
Audio Book Club - Where Books Come to Life! & Design	No. - 2,158,535
Audio Book Club - World's Largest Selection & Design 75/382801	→
Audio Book Club - World's Largest Selection of Audio Books & Design 75/382818	→
Miscellaneous Design 75/389209	→
Where Books Come to Life!	No. 2,244,389 Reg.
Audio Book Club - Where Books Come to Life! & Design 75/389207	No. 2,252,868
BooksAloud 75/468847	→
BooksAloud.com 75/468846	→
Audio Book Club 74/567910	→

COLLATERAL ASSIGNMENT OF SECURITY INTEREST IN TRADEMARKS

COLLATERAL ASSIGNMENT OF SECURITY INTEREST IN TRADEMARKS, dated as of April 30, 2001, made by Fleet National Bank, a national banking association, as Administrative Agent, having a principal place of business at 100 Federal Street, Boston, MA 02110, (the "Grantor"), in favor of ING (U.S.) Capital LLC, having a place of business at 1325 Avenue of the Americas, New York, NY 10019, as the administrative agent (together with any successor thereto appointed pursuant to Article 10.6 of the Credit Agreement referred to below, the "Grantee") for the Secured Parties (as defined in the Credit Agreement referred to below).

MediaBay, Inc. has entered into a Credit Agreement, dated as of December 31, 1998, which Credit Agreement is contemporaneously herewith being amended and restated in its entirety to continue in effect pursuant to an Amended and Restated Credit Agreement dated as of even date herewith (said Agreement, as it may hereafter be amended, restated, supplemented, extended or otherwise modified from time to time, the "Credit Agreement"; the terms defined therein and not otherwise defined herein being used herein as therein defined), with the banks, financial institutions and other institutional lenders party thereto (the "Lenders") ING (U.S.) Capital LLC, as Issuing Bank and as Administrative Agent.

In connection with the Credit Agreement, the Grantor entered into an Intellectual Property Security Agreement, originally dated as of December 31, 1998, which was amended and restated in its entirety to continue in effect as the Amended and Restated Intellectual Property Security Agreement, dated as of April 30, 2001, (as further amended and restated, amended, supplemented or otherwise modified hereafter from time to time, the "Intellectual Property Security Agreement") with the other grantors party thereto in favor of the Grantee, pursuant to which the Grantor has granted to the Grantee for its benefit and the ratable benefit of the other Secured Parties a lien on and security interest in, inter alia, all of the Grantor's rights, title, and interest in and to the trademarks therefor whether then owned or thereafter acquired or created, including, without limitation, the trademarks therefor listed on Schedule A hereto (the "Trademarks").

The parties desire to record the Grantor's grant of the security interest in the Trademarks to the Grantee with the United States Patent and Trademark Office ("USPTO") as a full assignment to that certain Intellectual Property Security Agreement recorded in favor of the Grantor with USPTO on July 12, 1999 on Reel 001926 Frame 0533.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Grantor hereby agrees with the Grantee for its benefit and the ratable benefit of the other Secured Parties as follows:

1. The Credit Agreement and Intellectual Property Security Agreement and their terms and provisions are incorporated herein in their entirety.

2. The Grantor grants to the Grantee a security interest in all of its rights, title, and interest in and to the Trademarks.

IN WITNESS WHEREOF, the Grantor has caused this Collateral Assignment of Security Interest in Trademarks to be duly executed and delivered by its officer thereunto duly authorized, as of the date first written above.

FLEET NATIONAL BANK, as
Administrative Agent

By: Peggy Packham
Name: Peggy Packham
Title: Sr. Vice President

STATE OF Massachusetts

COUNTY OF Suffolk) ss:

On this 2 day of ~~April~~^{May} 2001 before me, a Notary Public in and for said County, personally appeared, Peggy Peckham, who acknowledged himself to be a Vice President of Fleet National Bank and that he executed the foregoing instrument for the purposes therein contained, by signing the name of the bank by himself as Vice President.

Nicole M Dams

Notary Public

My commission expires: December 22, 2006

AFTER RECORDING PLEASE RETURN TO:

**SCHEDULE A
TO
COLLATERAL ASSIGNMENT OF SECURITY INTEREST IN TRADEMARKS**

TRADEMARK REGISTRATIONS

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